

## **CITY OF BELMONT**

### **PLANNING COMMISSION**

#### **SUMMARY MINUTES**

**TUESDAY, DECEMBER 1, 2009, 7:00 PM**

Chair Horton called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

#### 1. ROLL CALL

Commissioners Present: Horton, Mayer, Parsons, Frautschi, Mercer, Reed, Mathewson  
Commissioners Absent: None

Staff Present: Community Development Director de Melo (CDD), Assistant Planner Gill (AP), City Attorney Zafferano (CA), Recording Secretary Flores (RS)

#### 2. AGENDA AMENDMENTS - None

#### 3. COMMUNITY FORUM (Public Comments) - None

#### 4. CONSENT CALENDAR .

##### 4A. Minutes of November 5, 2009

MOTION: By Commissioner Parsons, seconded by Vice Chair Mayer, to approve the Minutes of November 5, 2009 as presented.

Ayes: Parsons, Mayer, Mercer, Mathewson, Frautschi, Reed, Horton  
Noes: None

Motion passed 7/0

#### 5. NEW BUSINESS

##### 5A. Request for Extension Approval – 2612 Hallmark Drive

CDD de Melo summarized the staff Memorandum, noting that staff believes this second and final request for an extension to January 15, 2011 is warranted and that findings can be made in the affirmative. Responding to questions from the Commission, he noted that if the applicant does not meet this deadline, they would have to reapply for a new Single-Family Design Review for this project, and that very little has been done to satisfy the 10 outstanding conditions due to financial issues related to credit and the inability to obtain a loan for the project.

For the record, Commission Reed asked that the 2nd paragraph of the staff Memorandum be corrected to show that the Planning Commission approved the one-year extension at its meeting of December 16, 2008 (not December 15).

Nadia Holober, attorney representing applicants Reynaldo and Ruby Urbino, explained that the second extension is required in order to obtain the necessary financing to fulfill the project, and that the applicant intends to go ahead with the project and commence construction within the next year. She explained the difficulty in securing a loan and selling other properties in the current weak economy. They have been meeting with the proposed general contractor and the City Building Official regarding the last 10 issues needed to obtain a building permit, and thanked CDD de Melo, Associate Planner Walker, the Chief Building Official, and the Commission for their consideration of the request.

For the record, Commission Mercer recalled that she was originally unable to make the findings for this project and could not see that anything has changed; she still believes that the project is inappropriate for its site in respect to bulk. Commissioner Frautschi concurred, adding that he could not make the finding regarding hardscape. He also questioned the intent of the applicant and could not support an extension of this project.

MOTION: By Vice Chair Mayer, seconded by Chair Horton, to adopt the Resolution approving a second extension of a Single-Family Design Review for 2612 Hallmark Drive (Appl. No. 2009-0046).

Ayes: Mayer,  
Horton, Reed  
Noes: Mercer, Frautschi  
Abstain: Mathewson, Parsons

Motion passed 3/2/2

Chair Horton announced that this decision can be appealed within 10 calendar days.

## 6. PUBLIC HEARINGS

### 6A. PUBLIC HEARING – 2716 Newlands Avenue

The applicants/owners requests Single Family Design Review approval to construct a 666 square foot addition to the existing 2,351, square foot single family residence. The resulting total of 3,017 square feet is below the zoning district permitted 3,140 square feet for the site.

(Appl. No. 2009-0023)

APN: 043-263-260; Zoned: R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

Applicant/Owner: Don & Nanette Lew

Project Planner: Rob Gill, 650-598-4204

AP Gill summarized the Staff Report, recommending approval subject to the attached Resolution and Conditions of Approval.

Commissioner Frautschi raised the following questions and issues:

- 1) Who owns the fence on the north side of the property that is missing?
- 2) He needed more information about staging and access to the site in order make findings G and H.
- 3) Why were they not provided a geological report or some sort of peer review by Cotton and Shires?
- 4) What is the actual size of the retaining wall at the back of the property?
- 5) What is the height the new retaining wall - Sheet A7 lists it as 5'8" and sheet 8 lists it as 6'2"?
- 6) Why were they not provided a landscape plan as required by the Municipal Code?

Commissioner Parsons raised the following concerns:

- 1) There was no discussion of the covered space under the existing house or of the proposed new crawl space.
- 2) There appears to be stairs going down the inside of the garage but he could not see where they went and whether they are proposed.
- 3) He questioned the need for a floor underneath the proposed living area and a retaining wall all the way around the house with a door. He suggested putting the door at the bottom and not having a finished floor.

Vice Chair Mayer noted his frustration that he was unable to gain access to the property. He also questioned the need for an entrance to the crawl space and what it is for.

Commissioner Mercer concurred with Vice Chair Mayer. She added that the project plans do not call for any fill and questioned the need for a deck that is not retaining anything but air and if the footage underneath the deck is included in the floor area of the home. CDD de Melo responded that there are no proposed crawl space areas that exceed the 6'6" limit and AP Gill stated that staff did not go under the house to measure the height of the existing crawl space. He added that the existing house is measured from the existing grade to the uppermost roof portion where the exposed wall hits the ground.

Herman Diedery, architect for the project, stated that the reason the retaining wall was built is that the code reads that the height limit is taken from finished grade and the retaining wall is bringing up the finished grade so that the house conforms to the 28' height limit. He added that the existing house is 34'6" above the existing grade and the new addition is not making that any worse or any better. The crawl space is being kept at 6'5" and the access door to the crawl space is required by the UBC. The retaining wall also forms a walkway to the door. The door to the crawl space will be moved from the side of the house to the front of the house.

Responding to Commissioner Frautschi's questions, Mr. Diedery stated as follows:

- 1) He did not realize a 25' section of fence on the north (left) side of the property was missing but they will be happy to replace it if the Commission so desires.
- 2) Regarding a gate by the trash receptacles that appeared to be nailed shut, he did not believe there were any plans to make that a route from the driveway.
- 3) He assumed the contractor would choose to access the area from the right side so as not to disturb the existing grade or the existing stairs.

Discussion ensued regarding the lack of a soils report and grading permit. Mr. Diedery stated that he has a soils report, which he will submit to the Commission, but that there is no grading permit because the grading will only be 18" and about 4 cubic yards. Staff had not requested a grading permit based on the scope of the addition.

Discussion ensued in response to Commissioner Parsons' questions about the retaining wall and the definitions and calculation of grade and height. He believed that the plan was a way of getting around the height limit and that he would not be able to make a finding.

Commissioner Frautschi stated that a landscape plan is needed in order to meet the requirements of Municipal Code 13-3. He did not believe photographs of the existing landscape was sufficient, and noted that a neighbor's Oak tree is touching the existing deck and will need to be trimmed. Mr. Diedery agreed to provide a landscape plan.

In response to Commissioner Parsons' question, Mr. Diedery stated that the existing crawl space varies in height from 0 to probably 8', which will have a platform added to it so that none of the new crawl space will be over 6'5". CDD de Melo noted that if this crawl space existed as of the 8/23/2001 change to Definition 8/01, that crawl space did not count against the floor area total unless it is proposed to be converted to habitable floor area.

Responding to Commissioner Parsons, Mr. Diedery stated that the stairway to the garage connects to the house in the family room.

Commissioner Mathewson was also concerned about the square footage for the crawl space and the lack of a landscape plan.

Chair Horton opened the Public Hearing. No one came forward to speak.

MOTION: By Commissioner Parsons, seconded by Vice Chair Mayer, to close the Public Hearing. Motioned passed 7/0 by a show of hands.

Commissioner Mercer explained why she could not define the additional wall in the back as a retaining wall and why she believed it fit the definition of a balcony or a deck. Measuring from the existing true grade puts the height of the sun room at about 32" and she believed the space that is being built there is an attempt to get around the fine print of the law. She had no objections to the lower level additions or the interior remodeling, but from her perspective the sun room is a clear zoning violation. She stated that she would be willing to look at the project again without the sun room and the deck, and without skirting the issue of raising the true honest elevation.

Commissioner Reed needed clarification of the grade issue before he could vote on the project.

Responding to a question from Vice Chair Mayer, CDD de Melo read the following quote from the code: "Grade is the lowest point of elevation of the finished surface of the ground paving or sidewalk within the area between the building and the property line or when the property line is more than 5' from the building" adding that the caveat in this case is "between the building and a line 5' from the building." He went on to explain that if the applicant creates a structure--whether it's a wall, a deck, or a platform--its grade. The applicant is using the rationale that the addition is 28' above that. Further discussion ensued. CA Zafferano pointed out that the one question he would ask every body to consider is, if the structure had been there before, would the City not have measured the grade from that point? In other words, the issue that seems to be in discrepancy is that this structure is being added; however, if the structure had been there before it seems that the City would have been able to measure grade from that point and have that be consistent with the existing code. He added that there may not be a definitive position – it's ultimately up to the Planning Commission to decide what its rules and regulations mean and how to apply them in particular cases.

Commissioner Parsons stated that 1) he would not be able to make the finding in regard to bulk regardless of the interpretation of the code, 2) a landscape plan is needed, and 3) he would like to know the square footage and type of floors that are under the existing building.

Commissioner Frautschi commented as follows:

- Would like to have a complete photographic depiction of the area whenever they have a site that is inaccessible.
- No required Public Hearing Notice was visible from the public right-of-way. He does not even like to hear a project knowing that some neighbors may not be aware that a project is being proposed.
- Couldn't find for Findings A and B. He disagreed with staff's assessment that the proposed addition will be obscured from the street view by the existing dwelling roof line. He believed it will impact the view from the public right-of-way in the gaps between the houses on Newlands.
- The design extends and perpetuates the building bulk by not following the natural slope of the property and stepping downward. It's a flat approach to a 41% sloped, complicated, lot.
- The design adds bad to worse on the already legal non-conforming elements.
- A landscape plan is needed because the Oak tree belonging to the neighbor on the left will need trimming, the landscape is meager and the fencing is suffering from lack of maintenance. Garbage cans cannot be left out. He asked that everybody read Municipal Code 13-3A and B because he believes that those requirements make it absolutely necessary that they have a landscape plan that the architect is responsible to incorporate into the packet.
- He would continue the project for further Design Review.

Chair Horton believed there is a problem with the way the project is measured and could not make the findings.

CDD de Melo was hopeful that the project could be continued. Staff will work with the applicant relative to understanding the questions raised and to try to achieve an affirmative finding on all 8 of the findings.

MOTION: By Commissioner Parsons, seconded by Commissioner Frautschi, to continue the Single-Family Design Review for 2716 Newland Avenue (Appl. No. 2009-0023) to a date uncertain.

Ayes: Parsons, Frautschi, Mercer, Mathewson, Mayer, Horton  
Noes: Reed

Motion passed 6/1

Vice Chair Mayer reiterated what had been said about the landscape plan and that the retaining wall on the left that just drops off needs to be dealt with, and Commissioner Parsons added that the issue of where construction materials will be stockpiled needs to be dealt with and that any landscaping in front will be damaged.

## 7. REPORTS, STUDIES AND UPDATES:

CDD de Melo reported as follows:

7A. Ralston/US-101 Landscape Project  
No report at this time.

7B. San Mateo Development – North Road/43rd Avenue  
He expected the second encroachment permit for the property to the west of the subject property to be pulled shortly.

Commissioner Parsons asked that a meeting be scheduled with someone from Parks and Recreation to develop a plan for the rest of the right-of-way on that side of North Road. CDD de Melo stated that he has been talking with P&R, and they have concerns about removing a eucalyptus tree that is dying. Commissioner Parsons suggested that they not remove that tree until they have some new trees to plant around it.

7C. Parking Study – Downtown Village Area  
No report at this time.

7D. High-Speed Train (HST) Project – San Francisco to San Jose  
Will continue to forward emails as updates are received.

7E Chuck's Donuts – 641 Ralston  
Several Commissioners reported that new trees have been planted.

7F. Emmett House  
Swatches are still coming in and the front porch is being built.

7G. 1000 South Road  
The applicant for a 24-unit condominium project has been unable to obtain financing for that project and it will not happen. The property has been on and off the real estate market, as well as the adjacent home at 950 Holly. Staff is trying to work with an absentee property owner and property manager on maintenance issues. A party living in 950 Holly is trying to manage both properties and conduct some regular maintenance of the sites. The applicant has not even been able to get a loan to face lift the building enough to rent as apartments. Staff will continue to monitor the sites.

#### Other Items

Commissioner Parsons asked that Code Enforcement check the two dumpsters that are always on the street adjacent to Planet Granite.

Referring to the front of the two unoccupied houses that were built on Ralston on the right side, Commissioner Parsons asked that someone check on a piece of black rubber hose that sticks out of the ground about 15' and then goes back down. It is unsightly and he believes it is a safety hazard.

#### 8. CITY COUNCIL MEETING OF TUESDAY, DECEMBER 8, 2009 – 7:00 P.M.

Liaison: Commissioner Parsons  
Alternate Liaison: Vice Chair Mayer

Chair Horton announced that the lighting of the City Hall tree would take place the following evening, that City Hall will be closed on Friday, December 25th through Friday, January 1st and will reopen for business on Monday, January 4th, and that there will be no Planning Commission Meeting on Tuesday, January 5th.

#### 9. ADJOURNMENT:

The meeting was adjourned at 8:25 p.m. to a Regular Planning Commission Meeting on Tuesday, December 17, 2009 at 7:00 p.m. in Belmont City Hall.

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Carlos de Melo  
Planning Commission Secretary

CD's of Planning Commission Meetings are available in the  
Community Development Department.  
Please call (650) 595-7416 to schedule an appointment.